REMARKS

With the cancellation of claims 13-21, claims 1-12 and 22-27 are pending. Claim 24 has been amended to correct a typographical error. Claims 1, 3, and 8 have been amended. Descriptive support for the amendments can be found at least in page 23, lines 4-7; page 26, line 27 to page 27, line 5; Example 4. No new matter has been introduced.

Election/Restrictions

Claims 13-21 have been cancelled. Claims 1, 2, 5-12, and 22-27 are generic because these claims read on the species in both Group I and Group II.

Claim Objection

The Office Action objects to claim 24, noting that "cooing water" appeared to be a typographical error. Claim 24 has been amended to replace "cooing water" with "cooling water," as suggested by the Examiner. Withdrawal of the objection is respectfully requested.

Claim Rejections under 35 U.S.C. §103

I. Applicants respectfully traverse the obviousness rejections of claims 1-9, 12, 22, and 26 over Takeuchi et al (US 6,245,880).

Claim 1 and claim 3 have been amended to recite "the thermoplastic resin is a polyester resin, and said polyester resin contains at least one polymerization catalyst used for said polyester resin selected from the group consisting of an aluminum compound and a germanium compound." Takeuchi does not teach or suggest a thermoplastic resin composition for masterbatches comprising a polyester resin that contains at least one polymerization catalyst selected from the group consisting of an aluminum compound and a germanium compound.

One of the objects of the present invention is to "provide a thermoplastic resin composition that contains an organophosphorus compound such as DOP, a derivative of DOP, and CPPA and can easily be molded even when it has a high phosphorus content and thus flame retardancy and to provide a method of producing such a composition." Specification, page 3, line 26 to page 4, line 1. The object is achieved by the thermoplastic resin composition for masterbatches that comprises an organophosphorus compound and a polyester resin containing at least one polymerization catalyst used for the polyester resin selected from the group consisting

of an aluminum compound and a germanium compound, as recited in amended claims 1 and 3. An effect of the claimed invention is described in page 11, lines 6-12 of the specification: "The thermoplastic resin composition for masterbatches of the invention has high whiteness and high resistance to discoloration. Thus, the thermoplastic resin composition obtained by mixing the thermoplastic resin composition for masterbatches of the invention with the same type or a different type of thermoplastic resin (base resin) has good transparency and good color tone."

The polyester resin composition described in Takeuchi contains an antimony compound as a polymerization catalyst (column 19, lines 33-35). Takeuchi does not teach or suggest a thermoplastic resin composition for masterbatches that contains an aluminum compound or a germanium compound as a polymerization catalyst.

Because the claimed thermoplastic resin composition for masterbatches has a high phosphorus content of 5000 ppm or more (claims 1 and 3), the resin composition tends to turn blackish. However, a masterbatch that is high in whiteness and good in color tone can be obtained when a germanium compound and/or an aluminum compound are used as a polymerization catalyst for a polyester resin, as demonstrated in Example 4 of the present application. By contrast, no sufficient whiteness was obtained when an antimony compound is used as a polymerization catalyst (Example 1), as demonstrated by the haze value in page 50, Table 1 and the color value in page 52, Table 2.

Because Takeuchi fails to teach or suggest a thermoplastic resin composition for masterbatches that contains at least one polymerization catalyst selected from the group consisting of an aluminum compound and a germanium compound, a *prima facie* case of obviousness has not been established. Withdrawal of the rejections of claims 1-9, 12, 22, and 26 over Takeuchi et al (US 6,245,880) under 35 U.S.C. §103 is respectfully requested.

II. Applicants respectfully traverse the obviousness rejections of claims 10 and 11 over Takeuchi et al (US 6,245,880) in view of Tamura et al (US 2002/0186120).

As discussed above, Takeuchi fails to teach or suggest a thermoplastic resin composition for masterbatches that contains at least one polymerization catalyst selected from the group consisting of an aluminum compound and a germanium compound, as recited in claims 1 and 3. The deficiencies of Takeuchi is not cured by Tamura. Claims 10 and 11 would not have been

obvious over Takeuchi in view of Tamura. Withdrawal of the rejections is respectfully requested.

III. Applicants respectfully traverse the obviousness rejection of claim 23 over Takeuchi et al (US 6,245,880) in view of Marston et al (WO 02/063079).

As discussed above, Takeuchi fails to teach or suggest a thermoplastic resin composition for masterbatches that contains at least one polymerization catalyst selected from the group consisting of an aluminum compound and a germanium compound, as recited in claims 1 and 3. The deficiencies of Takeuchi is not cured by Marston. Claim 23 would not have been obvious over Takeuchi in view of Marston. Withdrawal of the rejection is respectfully requested.

IV. Applicants respectfully traverse the obviousness rejections of claim 24 and 25 over Takeuchi et al (US 6,245,880) in view of Eto et al (JP 2003-147063), Park et al (US 5,478,911) and Chen et al (US 5,916,677).

As discussed above, Takeuchi fails to teach or suggest a thermoplastic resin composition for masterbatches that contains at least one polymerization catalyst selected from the group consisting of an aluminum compound and a germanium compound, as recited in claims 1 and 3. The deficiencies of Takeuchi is not cured by Eto, Park, and Chen. Claims 24 and 25 would not have been obvious over Takeuchi in view of Eto, Park, and Chen. Withdrawal of the rejections is respectfully requested.

V. Applicants respectfully traverse the obviousness rejection of claim 27 over Takeuchi et al (US 6,245,880) in view of Murschall et al (US 2002/0128358).

As discussed above, Takeuchi fails to teach or suggest a thermoplastic resin composition for masterbatches that contains at least one polymerization catalyst selected from the group consisting of an aluminum compound and a germanium compound, as recited in claims 1 and 3. The deficiencies of Takeuchi is not cured by Murschall et al. Claim 27 would not have been obvious over Takeuchi in view of Murschall et al. Withdrawal of the rejection is respectfully requested.

Double Patenting 1

Claims 1-5, 7 and 8 were rejected on the ground of nonstatutory obviousness-type double patenting as being obvious over claims 13-18 of Takeuchi et al (U.S. 6,245,880). Applicants respectfully traverse the rejections. Without acquiescence with the rejections, claims 1 and 3 have been amended to recite "the thermoplastic resin is a polyester resin, and said polyester resin contains at least one polymerization catalyst used for said polyester resin selected from the group consisting of an aluminum compound and a germanium compound." Amended claims 1 and 3 (and all claims dependent therefrom) would not have been obvious over claims 13-18 of Takeuchi because claims 13-18 of Takeuchi does not teach or suggest a thermoplastic composition comprising a polyester resin that contains at least one polymerization catalyst selected from the group consisting of an aluminum compound and a germanium compound. Withdrawal of the rejections is respectfully requested.

Double Patenting 2

Claims 1 and 3 were rejected on the ground of nonstatutory obviousness-type double patenting as being obvious over claim 2 of copending Application No. 09/889,508. Applicants respectfully traverse the rejections. Without acquiescence with the rejections, claims 1 and 3 have been amended to recite "the thermoplastic resin is a polyester resin, and said polyester resin contains at least one polymerization catalyst used for said polyester resin selected from the group consisting of an aluminum compound and a germanium compound." Amended claims 1 and 3 (and all claims dependent therefrom) would not have been obvious over claim 2 of copending Application No. 09/889,508. Withdrawal of the rejections is respectfully requested.

CONCLUSION

All outstanding rejections have been overcome. It is respectfully submitted that, in view of the foregoing amendments and remarks, the application is in clear condition for allowance. Issuance of a Notice of Allowance is earnestly solicited.

Although not believed necessary, the Office is hereby authorized to charge any fees required under 37 C.F.R. §1.16 or §1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Office is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,
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